

DIVISION OF PROFESSIONAL REGULATION

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December 2008

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Delaware Real Estate Commission

Revised Property Disclosure Forms

The Commission has revised the property disclosure forms for use by licensees effective September 1, 2008.

There are two disclosures, one for use with resale properties and one for use with new construction.

A new *Exempt Property Certification* form has been introduced for use by licensees when a property being sold qualifies for disclosure exemption in accordance with **6 Del. C. § 2577**.

The property disclosure and exempt property certification forms are posted in a pdf format on the Commission's website.

Listing licensees should remind sellers that property disclosure forms are required on the sale of residential properties improved by dwelling units for 1-4 families unless the seller meets one of the exemptions as stated on the *Exempt Property Certification*.

Sellers must update the

forms during the listing period.

The new construction property disclosure is required on a property that has not yet been occupied.

When listing a new construction property, licensees must ensure that the seller provides the new construction property disclosure form for buyer acceptance as a part of any new construction purchase contract.

Salesperson License Approval Process

The Division of Professional Regulation now issues resident and non-resident salesperson licenses on a weekly cycle. This new process decreases the application processing time from 30 days to one week.

If a salesperson application does not meet all of the approval requirements, the application will not qualify for weekly approval and will be placed on the agenda for review at the next scheduled Commission meeting.

Applications for brokers, new offices, and reinstatement of licenses will still be reviewed during the monthly Commission meeting. To assure consideration of one of these applications, the Division of Professional Regulation must receive the completed application by 4:30 PM ten full working days before the Commission meeting date.

When making any licensure application, be sure to include your e-mail address on the application. This

enables the Division to send you an application receipt. The receipt explains how to obtain the status of your application online.

You may check the status of your application by using the "Application Status" link on the Commission website.

You may also use the "Verify License Online" link to see the licensure status of new applicants and applicants who were previously approved.

Delaware law requires real estate salespersons and brokers to provide the Consumer Information Statement (CIS) to the public at the earlier of their first scheduled appointment or the first showing of a property.

24 Del. C. § 2972(b)

If your first contact is via fax or email, this CIS must be supplied with any other papers sent by electronic transmission.

- 24 Del. C. § 2972(b)



Non-Resident License Renewals

If you hold a non-resident broker or salesperson license, your license must be renewed on or before April 30, 2009.

After your 2009 renewal has occurred, the new license will have a one-time term of three years.

Beginning May 1, 2012, both non-resident and resident licenses will be issued for identical terms and will expire on April 30 of each even-numbered

year.

Non-resident licensees will be required to complete 15 hours of continuing education prior to April 30, 2009 and 15 hours during the one-time three-year term ending on April 30, 2012.

The current continuing education requirement for license renewal totals 15 credit hours.

Each salesperson licensee

must complete three mandatory credits in the salesperson's Core Course plus three mandatory credits in Delaware Legislative Update.

Each broker licensee must complete the 6-hour mandatory broker's Core Course.

All licensees must complete nine elective credits in any continuing education course approved by the Commission.

Complaints Against Licensees

The Division routinely investigates two types of complaints: anonymous complaints received about a person suspected of practicing without a license and complaints of all other concerns about the conduct of a licensee.

Except for complaints of suspected unlicensed activity, a complaint form must be signed, including information about the complainant, the licensee, and a detailed description

of the complaint.

The Division's Investigative Unit reviewed 86 complaints during the period of July 2007 through June 30, 2008.

The Unit reports that 41% of the complaints filed did not warrant investigation.

Thirty-one percent of the complaints were investigated. However, investigation determined that the licensee violated neither the statute nor rules and regulations.

Most of the investigations were for unprofessional conduct (55%) and fraudulent activity on the part of the licensee (26%). Other complaint categories included,

- misrepresentation
- unlicensed activity
- criminal convictions.

During this period, after hearing, one license was revoked and one was suspended.

Visit Us at a Commission Meeting

The Delaware Real Estate Commission meets on the second Thursday of each month starting at 9:00 a.m. Meetings generally run approximately two hours. The meetings are held in Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover,

Delaware.

The agendas for each meeting are posted in advance on the Commission's website. After approval by the Commission, Minutes from prior meetings are also posted on the website.

Each meeting is open to the public and includes an opportunity for public comment.

In addition to the Commission, a standing Education Committee also meets monthly. Committee meetings are also open to the public.

Continuing Education Audit

The Delaware Real Estate Commission recently completed an audit of 685 randomly selected licensees who renewed their licenses during the recent renewal cycle (May 2006 – April 2008).

The purpose of the audit was to confirm compliance with continuing education requirements for license renewal.

Education certificates were reviewed to ensure that classes taken by licensees were approved courses, that the dates of completion were during the renewal period, and that the licensees had completed the mandatory courses.

Approximately 21% of the audited licensees were directed to show cause as to why their licenses should not be suspended or revoked for failure to comply with the Commission's continuing education requirements.

Show Cause hearings take place at Commission meetings. During these hearings, the licensee is requested to explain

why he or she did not complete the required continuing education before certifying on the renewal application that he or she had completed it.

Licensees may have their licenses suspended or revoked for failure to meet the Commission's continuing education requirements. To date, the Commission has issued suspension orders for periods of 14 days to 7 months. Two licenses have been revoked.

Non-resident licensees will be audited after their renewal period closes in 2009.



Radon Disclosure and Brochure

Delaware law requires that the seller of any interest in residential real property that includes a dwelling must provide the buyer with any information about any known radon.

Sellers must also disclose any tests or inspections for radon that are in the seller's possession (6 Del. C. § 2572A).

In conjunction with the Delaware Department of Health and Social Services' Division of Public Health, the Commission has published two documents to be used by licensees to satisfy the radon disclosure.

The *RADON Rights, Risks and Remedy for the Home*

Buyer is an information sheet that describes radon and provides the public with information about testing and resources.

The *Radon Disclosure* form is used in conjunction with the information sheet to allow the home seller to disclose his or her knowledge of the existence of radon and radon reports regarding the property.

Both documents are found on the Commission website.

Broker Price Opinions

Licensees are reminded that only licensed appraisers are authorized to perform real estate appraisals.

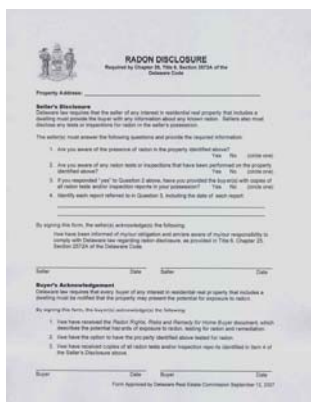
An appraisal is defined as "an analysis, opinion, or conclusion relating to the

nature, quality, value, or utility of specified interests in, or aspects of, identified real estate as of a specific date" (24 Del. C. §4002(1)).

A competitive market analysis, also known as a broker price opinion, that is used only for the purpose of listing a property for sale or lease, is not considered an appraisal (24 Del. C. §4019(a)).

Forms

Licensees should not alter the format or content of forms posted on the Commission website.



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The primary objective of the Delaware Real Estate Commission, to which all other objectives and purposes are secondary, is to protect the general public, especially those persons who are the direct recipients of services regulated by the real estate statute and Commission rules and regulations, from unsafe practices and from occupational practices which tend to reduce competition or fix the price of services rendered.

24 Del. C. § 2929

Visit us at:

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Our Annual Legislative Seminar

The Commission held their Annual Legislative Seminar on September 11, 2008 at the PolyTech Adult Education Conference Center. The speakers and topics were:

Christopher Whitfield, Chairman of the Delaware Real Estate Commission, who spoke on Commission

Initiatives.

James Collins, Director of the Division of Professional Regulation, who spoke about customer service initiatives that have been implemented or planned for the Commission.

Andrew Taylor, Esquire,

reviewed the new seller disclosure and agency amendments.

William Ward, Esquire, reviewed the statewide Agreement of Sale.

Donald Ash, Broker, discussed foreclosures and short sales.

Voluntary Treatment Option Program

The Division has a professional assistance program for chemically impaired or dependent licensees (29 Del. C. § 8735(n)).

Licensees may enter the VTO program by self-referral or by a

third party written referral.

Licensees may complete an application and send it to Commission member Denise Stokes, at the Commission.

Upon receipt, Ms. Stokes and a Division representative will meet

with the licensee to discuss program requirements and determine eligibility. Applications are available on the Commission website.

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